

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID H. KNIGHT,)	
Plaintiff)	
)	CIVIL ACTION
v.)	No. 03-410 Erie
)	
BUILDING MATERIALS)	
CORPORATION OF AMERICA d/b/a)	
GAF MATERIALS CORPORATION)	
and/or BUILDING MATERIALS)	
MANUFACTURING CORPORATION)	
and JOE RINDERLE,)	
Defendants)	

PLAINTIFF'S PRETRIAL NARRATIVE STATEMENT

NOW COMES the plaintiff, David H. Knight, by his attorneys, Law Offices of Timothy D. McNair, and pursuant to this Court's Pretrial Schedule and Order, submits the following Pretrial Statement.

1. Narrative Statement

This case seeks damages of defendants for claims arising under the Civil Rights Act, 42 USC § 1981, Title VII, of the Civil Rights Act of 1964, as amended, 42 USC § 2000(e), et seq., and the Pennsylvania Human Relations Act, 42 P.S. § 951, et seq. Jurisdiction and venue are not contested, nor is the assignment of this to the Erie Division.

Plaintiff was employed as a truck driver based at the GAF plant in Erie, Pennsylvania. Plaintiff was subject to the exclusive direction and control of his work activities by GAF and its representatives; the payroll service, Transportation Unlimited,

Inc., had no operational control over the plaintiff. Among plaintiff's supervisors were Joseph Rinderle, who is the defendant in plaintiff's claim under the Pennsylvania Human Relations Act.

During the course of two years of employment at the GAF facility, the plaintiff, an African American, was frequently and repeatedly subjected to hostile and offensive conduct of his co-workers, including Joseph Rinderle. Plaintiff was assigned the least desirable work, consisting of shuttling product locally, which involved frequent loading and unloading and a much higher level of physical exertion than did the more desirable long-haul trips, which were preferentially assigned to other, white employees, some with significantly less seniority than the plaintiff. The defendant did not have a seniority system.

Despite the ongoing hostile and offensive comments and disparate treatment, the plaintiff continued his employment without complaint since the pay and benefits were good and the work scheduled permitted the plaintiff to be with his family on nights and weekends.

During the period of time the plaintiff worked there, other, non-black employees missed work without calling in or without a reasonable excuse and were not disciplined or terminated. On one occasion, plaintiff requested two days off without pay. He was terminated for this request.

Since then, plaintiff has found other employment, although at a significantly lower wage.

Plaintiff's termination was effected by GAF requesting the payroll service to remove the plaintiff from its contract with the payroll service.

Plaintiff was paid by an organization known as Transportation Unlimited, or Complete Personnel Logistics, Inc., of Cleveland, Ohio. Transportation Unlimited handled the payroll, benefits, and regulatory compliance of CDL licensed truck drivers who operated GAF equipment in the delivery of GAF products and over which GAF had complete operational control. GAF was in a position, therefore, to impair the plaintiff's right of contract with Transportation Unlimited and the plaintiff's removal from GAF's contract with Transportation Unlimited was effectively the discharge of plaintiff from employment.

2. **Damages Claimed**

Wage Loss:

Back Pay: \$28,543.33 (see attached calculation)

Front Pay

Compensatory damages

Punitive damages

Attorney's fees and costs

3. **Witnesses**

Plaintiff may call some or all of the following individuals:

		<u>Liability</u>	<u>Damages</u>
a.	David H. Knight 713 East 18 th Street Erie, PA 16503	X	X
b.	Joseph Rinderle c/o Defendant	X	X
c.	Greg Guarino c/o Defendant	X	X
d.	Charles Potter c/o Defendant	X	X
e.	Leonard Van Cise c/o Defendant	X	X
f.	John Whipp c/o Defendant	X	X
g.	Tom McBride c/o Dunlap Trucking 12 th & Greengarden Erie, PA 16501	X	X
h.	Ben Clemente c/o Defendant	X	X
i.	Tim Maizner c/o Defendant	X	X
j.	Robert Wagner c/o Defendant	X	X
k.	Ken Joint c/o Defendant	X	X

		<u>Liability</u>	<u>Damages</u>
l.	Mike (last name unknown) c/o Defendant	X	X
m.	Laverne Murphy c/o Defendant	X	X
n.	Dennis (last name unknown) c/o Defendant	X	X
o.	Larry (last name unknown) c/o Defendant	X	X
p.	Roger Ellis c/o Defendant	X	X
q.	Fred (last name unknown) c/o Defendant	X	X
r.	Robert Stempka c/o Defendant	X	X
s.	Carlos Amelia c/o Defendant	X	X
t.	Brian Mellon c/o Defendant	X	X
u.	Glenn Pauley Director of Human Resources Complete Personnel Logistics, Inc. 3740 Carnegie Avenue Cleveland, OH 44115	X	X
v.	Amelia (last name unknown) Transportation Unlimited, Inc. 3740 Carnegie Avenue Cleveland, OH 44115	X	X

4. **Exhibits**

- a. Plaintiff's driving logs with summary
- b. W-2s and pay stubs from Transportation Unlimited, Relco Systems, Inc., 7310 Chestnut Ridge, Lockport, NY 14094, and Cycle City of Erie, Inc., 2814 Buffalo Road, Erie, PA 16510
- c. Back pay calculation

Plaintiff reserves the right to offer any exhibit listed in Defendants' Pretrial Narrative Statement.

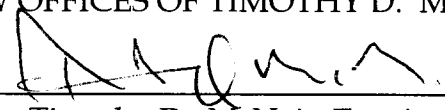
5. **Unusual Legal Issues**

None.

Respectfully submitted,

LAW OFFICES OF TIMOTHY D. McNAIR

By: _____



Timothy D. McNair, Esquire

Attorneys for Plaintiff

821 State Street

Erie, Pennsylvania 16501

(814) 452-0700

PA ID# 34304

David Knight

Wages Lost Statement

It has been documented that David Knight was employed less than three years as a full-time truck driver at Transportation Unlimited, and was paid \$13.00 per hour as of his last day of work on June 26, 2002.

Potential Earnings	
Year	Amount
2002 (6/26 thru 12/31)	\$13,936.00 (26 weeks and 4 days)
2003	\$27,040.00
2004	\$27,040.00
2005	\$17,160 (as of 8/19)
Total: \$85,176.00	

Recent Earnings	
Year	Amount
2003	\$27,360.00
2004	\$17,908.13
2005	\$11,364.54 (as of 8/19)
Total: \$56,632.67	

Wages Lost : \$28,543.33

- Potential Earnings based on 40 hour work week at \$13 per hour
- Recent Earnings based on H&R Block tax forms

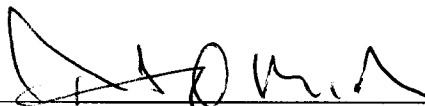
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of August, 2005, a copy of Plaintiff's Pretrial Narrative Statement was served via U.S. first class mail, postage prepaid, upon the following:

Lisa Smith Presta, Esquire
MacDonald Illig Jones & Britton LLP
100 State Street, Suite 700
Erie, PA 16507.



Timothy D. McNair, Esquire